IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO: 17772 of 2004

Between:

Kande Venkateswarlu, S/o Seshaiah,
Prop.Sri Kanaka Durga Modern Rice Mill, Matamally Village,

Nalgonda District

... PETITIONER

AND

1 The State Bank of Hyderabad Region-III, Zonal Office, rep.by

its Authorised Officer, Regional Manager, Kachiguda,

Hyderabad
2 The Chief Manager (Advances) Authorised Official, State

Bank of Hyderabad, Huzurnagar Branch, Huzur Nagar,

Nalgonda District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ more in the nature of Writ of Mandamus declaring the action of the respondents in proceeding to sell the assets i.e. Admeasuring Ac.2.07 guntas in Sy.No.403 in Matampally Village, Nalgonda District pursuant to sale notice dated 27-08-2004 without taking in to consideration of the Joint Meeting Deliberations held at Secretariat, Hyderabad and RBI guidelines, subsequent

proceedings by the Authorities as illegal, arbitrary and violative of Art.14 of the Constitution of India and consequently direct the respondents not to proceed with the sale of the Security Assets till finalization of the deliberations by the authorities for Revival and Rehabilitation of sick Small Scale Industrial Units.

Counsel for the Petitioner: MR.C.YADAGIRI

Counsel for the Respondents: A. Venkateswara Sarma

The Court made the following:

ORDER:

This writ petition is filed to declare the action of the respondents in proceeding to sell the assets, pursuant to the sale notice, dated 27-08-2004, without taking into consideration the decision taken in joint meeting of the representatives of State Government and Financial Institutions held at Secretariat, Hyderabad and RBI guidelines in this regard; and also the notice issued under Section 13 (4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (for short 'the Act') to take over the possession of the property of the petitioner, as illegal and arbitrary.

2. Earlier on issuance of the notice under Section 13(2) of the Act, dated 08-07-2003 and further opposition to notice dated 08-10-2003, petitioner-Durga Modern Rice Mill represented by its proprietor Mr. Kande Venkataswarlu filed W.P.No.22169 of 2003, which was dismissed by a Division Bench of this Court on 19-04-2004 reserving liberty to the petitioner to workout his / its remedies as provided under the Act including filing of appeal under Section 17 of the Act within the period of limitation prescribed therefor. In effect, the order passed under Section 13 (4) of the Act has to be challenged by way of an appeal before the Debt Recovery Tribunal. Since there was a stay pending writ petition, on dismissal of the writ petition, the present sale notice was issued

pursuant to the order passed under Section 13 (4) of the Act. Suppressing the said fact, petitioner filed the present writ petition on issuance of the sale notice pursuant to the order issued under Section order under Section 13(4) of the Act. In view of the same, petitioner, if aggrieved by the same has to file an appeal as directed by this Court, but cannot maintain the present writ petition.

3. The writ petition is devoid of merit and it is accordingly dismissed with costs of Rs.2,000/- (Rupees two thousand only) payable to the A.P. State Legal Services Authority, High Court Buildings, Hyderabad.

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A. **GOPAL REDDY, J**

October 26, 2004

MRR

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To:

1 The Authorised Officer, Regional Manager State Bank of Hyderabad Region-III, Zonal

Office, Kachiguda, Hyderabad.

2 The Chief Manager (Advances) Authorised Official, State

Bank of Hyderabad, Huzurnagar Branch, Huzur Nagar,

Nalgonda District.

3 The Secretary, A.P. State High Court Legal Services Authority, High Court Buildings,

Hyderabad.

4 Two C.D. Copies.